

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

North Shore Gas Company	:	
	:	07-0241
Proposed general increase in natural gas	:	
rates. (tariffs filed March 9, 2007)	:	
	:	
The Peoples Gas Light and Coke Company	:	07-0242
	:	
Proposed general increase in natural gas	:	Cons.
rates. (tariffs filed on March 9, 2007)	:	

**REPLACEMENT LANGUAGE FOR THE
ADMINISTRATIVE LAW JUDGES' PROPOSED ORDER¹**

¹ As to not burden the record with additional paper, and consistent with the Commission's Rules of Practice, Constellation NewEnergy-Gas Division, LLC, is providing replacement language for only those portions of the Administrative Law Judges' Proposed Order for which exceptions have been taken in the instant Brief on Exceptions. The suggested replacement language is being provided in red-lined fashion. In addition, the Attachment suggests typographical corrections to pages 3 and 6 of the Proposed Order.

At page 3 of the Proposed Order:

CNEG's witnesses were John M. Oroni, Regional Sales Director, CNEG; and Lisa A. Rozumialski, Manager of Gas Operations, CNEG.

IIEC, VES and CNEG filed joint testimony. Their witness was Dr. Alan Rosenberg, Consultant, Brubaker & Associates.

At page 6 of the Proposed Order:

On October 12, 2007, the Utilities, Staff, the AG, CNEG, CUB, the City, ELPC, IIEC, Multiut, NAE, RGS, VES, and UWUA all filed their respective Initial Briefs.

On October 23, 2007, the Utilities, the AG, RGS, VES, City, CUB-City, ELPC, CUB, NAE, UWUA, IIEC, CNEG, and Multiut submitted their respective post-hearing Reply Briefs. Staff filed its post-hearing Reply Brief on October 24, 2007.

Exception 1- **THE COMMISSION SHOULD AMEND THE PROPOSED ORDER TO
AUTHORIZE CRITICAL AND SUPPLY SURPLUS DAY SUPER POOLING**

The following replacement language should replace "Super-pooling" that appears at page 268 of the ALJ's Proposed Order:

6. Rider P-Pooling
b) "Super-pooling"

CNEG and Vanguard recommend approval of super-pooling, which allows aggregation of all of a supplier's customer pools into a single pool for certain purposes, such as measuring compliance with the Utilities' inventory and daily balance requirements. These intervenors also request that their individual, or "stand-alone," accounts be included in a super-pool.

After initially opposing super-pooling, the Utilities agreed to accept super-pooling if it were used solely for the purpose of determining whether a supplier meets biannual cycling requirements and if stand-alone (non-pooled) customers were excluded. NS-PGL Ex. TZ-3.0 at 14. Vanguard would accept the Utilities' revised position, though it would prefer to include stand-alone accounts in super-pools. Vanguard Ex. 3, 4:79-81. CNEG continues to urge that stand-alone accounts be added to super-pools and that super-pooling apply to critical and supply surplus days. Staff expresses "concerns" about super-pooling, but, "does not oppose it" insofar as it is acceptable to the utilities. Staff Init. Br. at 258.

The Commission approved super-pooling in Nicor, to "mitigate the adverse impact of cycling requirements adopted" in that case. Nicor, at 149. We see no reason to chart a different course in the present case, particularly when the Utilities are willing to accept super-pooling associated with their annual cycling requirements.

The Commission also concludes that stand-alone accounts can be included in a gas marketer's super-pool. Given the Utilities' assertion that the underlying intention of their cycling regime is to achieve *system-wide* objectives (and not to impose penalties on individual accounts), fragmentation of a marketer's stand-alone accounts is, at the least, unnecessary. The problem posed for the Utilities by inclusion of stand-alone accounts in super-pools is really a billing system problem. To alleviate that concern, we adopt CNEG's recommendation that a marketer or supplier cannot include in its super-pool any stand-alone customer that has purchased gas supply from another source during any month in which the marketer's or supplier's cycling compliance is assessed.

We also agree with CNEG that super-pooling should be utilized for the purpose of applying unauthorized use penalties on critical days or imbalance account charges on supply surplus days. CNEG's rationale – that critical days and supply surplus days are essentially like annual cycling compliance milestones, because they “are not regular, ongoing circumstances,” CNEG Init. Br. at 31 –makes it apparent that both seasonal cycling targets and critical and supply surplus days are rare events, not typical of most days of operation. Accordingly, for purposes of calculating annual cycling compliance, as well as penalties and charges for critical and supply surplus days, the Utilities can predictably employ an “ad hoc process that will run tangentially to their existing processing and, therefore will not require [structural modifications to billing systems].” Zack Ex. 3.0 at 16. To apply super-pooling to critical day and supply surplus events, the same treatment of stand-alone accounts will be applied; stand-alone accounts will only be considered when purchasing gas supply from a single source during the month. This will avoid entangling the utilities in the relationship between suppliers and individual customers with respect to allocation of daily gas deliveries.

CNEG proposes a mechanism for apportioning responsibility among super-pool members when the marketer or supplier is out of compliance with inventory requirements. CNEG Ex. 2.0 at 8-9. The proposed apportionment would be based upon the percentage by which an individual pool contributed to the total non-compliance margin. *Id.* The Utilities state that CNEG's proposal is acceptable. Zack Ex. 3.0 at 16. The Commission concurs.